

PUBLIC NOTICE

NR06MS.011



**TN DEPT. OF ENVIRONMENT & CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
MINING SECTION
3711 MIDDLEBROOK PIKE SUITE
KNOXVILLE TN 37921-6538**

ISSUE DATE 08/17/2006

EXPIRATION DATE 09/19/2006

TO WHOM IT MAY CONCERN: The applications described herein have been submitted for Aquatic Resource Alteration Permits pursuant to *The Tennessee Water Quality Control Act of 1977*, T.C.A. §69-3-108.

The purpose of this notice is to advise all concerned of the proposals for which permits are sought and to solicit comments and information necessary to evaluate the probable impact of the activities upon the respective water resources. The decision whether to issue or deny will in part be based upon that evaluation. All factors that may be relevant to the proposals will be considered.

Persons wishing to comment on or object to the issuance of a proposed permit are invited to submit comments in writing to the address listed above. Written statements received in this office on or before the date of expiration of the comment period, **September 19, 2006**, will become part of the record and will be considered in the determination. The public notice number, applicant's name, permit number and coordinator should be referenced.

Interested persons may also request in writing that the director of the Division hold a public hearing on any application. The request must be filed within the comment period and must indicate the interest of the person requesting it, and the reasons that the hearing is warranted. When there is sufficient public interest, the director shall hold a hearing in accordance with Rule 1200-4-1-.05(3)(G).

After consideration of comments submitted during the public comment period, the hearing record if any, and the requirements of federal and state law, the director of the Division will make determinations regarding the final action on each permit. Permit applications, supporting documentation and related comments are available for review and/or copying.

The public notice includes tentative determinations regarding the issuance, modification, denial or termination of permits for the activities proposed herein.

**DIVISION OF WATER POLLUTION CONTROL
MINING SECTION**

**WATER QUALITY PERMIT
§401 CERTIFICATION/AQUATIC RESOURCE ALTERATION**

PERMIT NUMBER #NR06MS.011

Permit Application Number: ARAP-#NR06MS.011

Applicant: Mr. Jack W. Lambert, Vice President
Vulcan Construction Materials, LP
Midsouth Division
2215 Olan Mills Drive, Suite A
Chattanooga, Tennessee 37421

Location: Unnamed tributary to Four Mile Creek in Polk County near Benton, Tennessee at 35°09'30.8" latitude, and 84°38'38.5" longitude on the Benton, Tennessee 7.5 Minute Series (Topographic) USGS Quadrangle.

Background Information: Vulcan Construction Materials, LP submitted an application to restore the stream channel for an unnamed tributary to Fourmile Creek in Monroe County. The stream is a first order intermittent tributary. The stream originates in the Southern Dissected Ridges and Knobs ecoregion, and flows into the Southern Limestone/Dolomite Valleys and Low Rolling Hills ecoregion at the Polk County Quarry site. The stream channel has been altered by agricultural and quarrying related activities. Reaches of existing stream channel between Rock Road and Fourmile Creek are poorly defined, braided, or have been eliminated. The degraded condition of the unnamed tributary to Fourmile Creek was documented as existing prior to Vulcan Construction Materials, LP acquiring the quarry. The stream has a 7Q10 recurrent low flow of 0 cubic feet per second and a mean annual flow of 0.02cfs(8 gallons per minute).

Vulcan Construction Materials, LP proposes to reestablish a defined stream channel with an over bank wetland that is adjacent to Rock Road. The Division's review of the permit application has determined that the scope of the project does not meet conditions for coverage under a general permit.

Project Description ARAP-#NR06MS.011: Vulcan Construction Materials, LP has applied for an Individual Aquatic Resource Alteration Permit for approximately 2100 linear feet of stream reconstruction and riparian enhancement type activities for a first order intermittent tributary to Fourmile Creek. The stream restoration plan was prepared by Griggs and Maloney, Inc..

- The permit application proposes to reconstruct a defined channel for the degraded stream. The new stream channel is to redirect the watershed drainage above the existing disturbance to another unnamed tributary reestablishing a hydrologic connection to Fourmile Creek.
- The reconstructed stream channel will be approximately 17 feet in width at the bankfull elevation, 5 feet in width at the stream channel bed elevation, and a depth of 3 feet at the bankfull elevation.
- Rock vanes will be used for grade control structures at approximately every 100 feet in reconstructed stream channel. The rock vane structures will also establish scour pool areas to provide variability of aquatic habitat.
- A five foot wide vegetated terrace is to be developed on either side of the reconstructed stream channel.
- Approximately 0.55 acres of overbank wetland is to be established along right descending bank of the stream channel adjacent to Rock Road.
- A diversion channel will be used to divert a 10 year, 24-hour storm flow of 95 cubic feet per second into the wetlands. The average depth of the wetlands at full inundation is 18 inches.
- On completion of construction and achievement of final grade the upland areas will be revegetated with an appropriate seed mix. The constructed wetland and riparian areas will also be planted with endemic tree and shrub species at a rate of approximately 400 trees per acre to assure the development of a forested wetland.

Tentative Determination: The Division proposes to issue a conditional permit.

Permit Coordinator: Dave Turner
Mining Section
Division of Water Pollution Control
3711 Middlebrook Pike
Knoxville, TN 37921-6538

Aquatic Resource Alteration Permit Conditions

1. All work shall be accomplished in conformance with the approved plans, specifications, data and other information submitted in support of the above application and the limitations, requirements and conditions set forth herein.
2. Drainage and erosion controls must be in place prior to commencing construction activities.
3. The construction of the mitigation project must be completed within one year of permit issuance.
4. The proposed work shall be carried out in such a manner as will prevent violations of water quality criteria as stated in *Rule 1200-4-3-.03* of the Rules of the Tennessee Department of Environment and Conservation. This includes but is not limited to the

prevention of any discharge that causes a condition in which visible solids, bottom deposits or turbidity impairs the usefulness of waters of the state for any of the uses designated by Rule 1200-4-4. These uses include fish and aquatic life, livestock watering and wildlife, recreation and irrigation.

5. Fifty-foot riparian buffers on either side of the stream channel must be established. Buffer areas without established vegetation must be planted with endemic shrub and tree species at the rate of four hundred stems per acre. No species should comprise more than one-third of the total planted trees in the riparian buffer zones. Seventy-five percent survivorship must be attained during the five-year monitoring period.
6. Activities that result in the alteration to “waters of the state” other than the reaches specified in the approved plans and permit require prior authorization under a separate Aquatic Resource Alteration Permit.
7. A copy of the permit and approved plans must be kept on site during all construction phases of the activity covered.
8. Monitoring must be implemented for NR06MS.011. The first two of the following items have been completed and submitted to the Division in this application:
 - Narrative description of pre-project conditions
 - Pre-project site assessment
 - Annual narrative description and photos
 - Annual riparian vegetation survey
 - Quarterly monitoring for saturation, inundation and site condition reported annually
 - Interim site evaluation during the year three monitoring period
 - Post-project habitat assessment at the end of the required monitoring period
9. A comprehensive post-project report must be submitted to the Division at the conclusion of the five-year monitoring period.
10. On successful completion of the ARAP the Division will issue a letter of finding that the conditions of the permit have been fulfilled indicating that no further action is required.

State of Tennessee Antidegradation Policy

Tennessee’s Antidegradation Statement is found in Chapter 1200-4-3-.06 of the *Rules of the Tennessee Department of Environment and Conservation*. The primary purpose of the antidegradation policy is to establish a greater level of protection for those waters that are identified to be of high quality. Some high-quality waters are in near-pristine

condition. Others are determined to be high quality due to specialized uses and/or unique features.

Generally, there are two types of high-quality waters. Outstanding National Resource Waters (ONRWs), or Tier 3 waters, are specifically designated by the Water Quality Control Board and are afforded the greatest level of protection. No new discharges or expansion of existing discharges are allowed to result in degradation of the existing water quality.

Other high-quality waters are identified by the Department as Tier 2 waters and are also protected against degradation. Some degradation may be allowed only if the Water Quality Control Board deems it economically and socially necessary. Other surface waters not specifically identified and/or designated as high quality are referred to as Tier 1 waters. Tennessee's Water Quality Standards must be achieved and/or maintained in these waters.

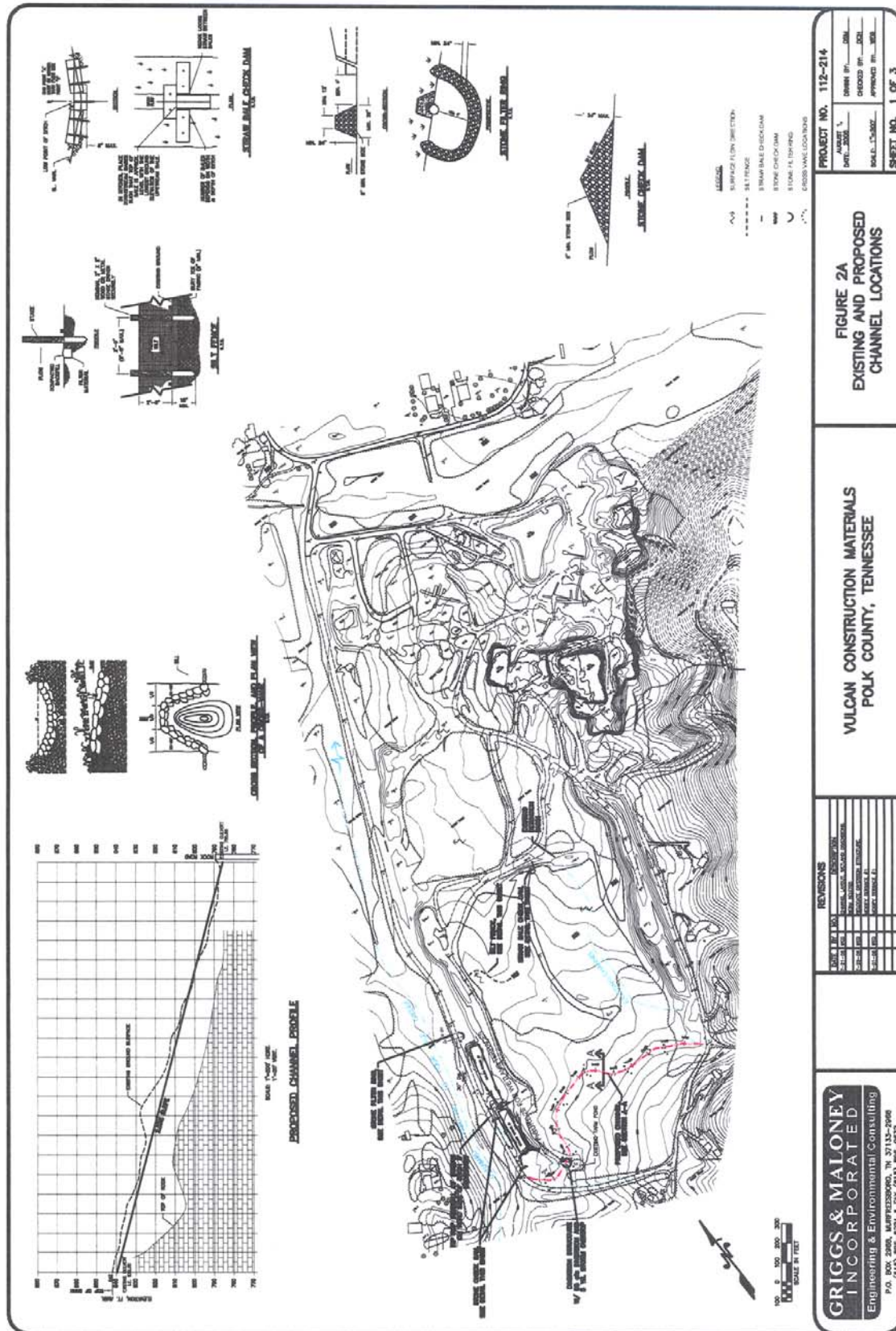
This permit does not obviate requirements of other federal, state or local laws.

The State of Tennessee reserves the right to modify or revoke this permit or to seek modification or revocation should the State determine that the activity results in more than an insignificant violation of applicable water quality criteria or violation of the Act. Failure to comply with permit terms may result in penalty in accordance with § 69-3-115 of the Act.

An appeal of this action may be made to the Water Quality Control Board. In order to appeal, a petition requesting a hearing before the Board must be filed within thirty days after receipt of the permit action. In such petition, each contention should be stated in numbered paragraphs, which describe how the proposed activity would be lawful and the action of the state is inappropriate. The petition must be prepared on 8½" by 11" paper, addressed to the Water Quality Control Board and filed in duplicate at the following address: Paul E. Davis, Director, Division of Water Pollution Control, 6th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243-1534. Any hearing would be in accordance with T.C.A. §69-3-110 and 4-5-301 et. seq. Questions concerning this certification should be addressed to Dave Turner at 865-594-5541 or Dan Murray at 865-594-5549.

Paul E. Davis, Director
Division of Water Pollution Control

Date



Site Location Map
 Vulcan Construction Materials, Polk County Quarry
 NR06MS.011